

**Basin Plan Triennial Review**  
**San Francisco Bay Region**  
**Brief Issue Descriptions**

**May 28, 2004**

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## **INTRODUCTION**

This year, the California Regional Water Quality Control Board, San Francisco Bay Region (Water Board), is conducting a triennial review of the water quality standards in its Water Quality Control Plan (Basin Plan). Planning staff is working on, or otherwise tracking, the following issues that relate to water quality standards (i.e., beneficial uses, water quality objectives and antidegradation) and associated implementation programs. The triennial review will determine which issues will be addressed in proposed Basin Plan Amendments over the next three years. Based on previous stakeholder comments, coordination with the statewide Basin Plan roundtable, and a review of regulatory program needs, Water Board staff has identified three general topics for consideration in the upcoming triennial review. These are listed below, along with examples of specific issues that could be addressed within each topic area.

### **1. Evaluate need for site-specific objectives for toxic pollutants**

The State Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays and Estuaries (SIP) sets forth the process for establishing site-specific objectives (SSO) for water bodies in California. The SIP states that Regional Water Boards may consider establishing SSOs where a priority pollutant criterion or objective may be inappropriate for a particular water body because (a) it does not protect the beneficial uses, or (b) based on site-specific conditions, a less stringent standard may be warranted.

Based on compliance issues for some dischargers, members of the regulated community have requested that the Water Board consider developing site-specific objectives for copper, nickel, and cyanide for San Francisco Bay. The SIP establishes a specific procedure for SSO development at page 31. The Water Board will follow this procedure in evaluating the need for SSOs for copper, nickel and cyanide for San Francisco Bay.

#### **Copper in San Francisco Bay**

Currently, the California Toxics Rule provides the basis for the marine water quality objective for copper in this region, 3.1 ug/l (chronic, or 4-day average) multiplied by a default water effect ratio (WER) of 1.0. This objective is used to derive effluent limits, and several dischargers are unable to comply with the derived limits. It is also used to determine whether the bay is impaired due to copper.

Available data from San Francisco Bay indicates that site waters exert a WER greater than 1.0, meaning that the waters have a consistent binding capacity for copper that renders some of the dissolved fraction non-toxic. The Water Board established a site-specific objective of 6.9 ug/l (chronic, marine) south of Dumbarton Bridge based on water effect ratio data from that portion of the region. A similar methodology can be employed north of Dumbarton Bridge that uses representative water effect ratio data that has been collected in cooperation with the dischargers. To offset concerns about

allowing waters to degrade to a higher copper concentration (antidegradation), any SSO package will include minimum pollution prevention actions for wastewater and stormwater agencies ("action plan").

### **Nickel in San Francisco Bay**

The 1986 Basin Plan saltwater, total-recoverable objective for Nickel is in the process of being updated to the CTR value of 8.2 ug/l dissolved (estimated to be in effect in Fall of 2004). Impaired water body listings triggered by the older number are expected to be delisted based on use of the statewide CTR criteria. South of the Dumbarton Bridge, the Bay's marine water quality objective for nickel is an SSO of 11.9 ug/l, based on a recalculation of the national criteria using more recent toxicity data. The regulated community has requested that the Water Board use the same recalculation method for the entire San Francisco Bay Estuary as was done to establish the SSO in the segment south of the Dumbarton Bridge.

### **Cyanide in San Francisco Bay**

Cyanide has become an NPDES permit compliance issue for municipal and industrial dischargers in the San Francisco Bay Region. Recent NPDES permits issued to Central Contra Costa Sanitary District, East Bay Municipal Utility District, Sewerage Authority of Southern Marin and City of San Mateo have required individual permittees to submit work plans to the Water Board for the development of a site-specific marine water quality objective for cyanide in San Francisco Bay. A first step in this effort is to update the current U.S. EPA cyanide criterion to incorporate the most recent, and scientifically defensible toxicity data.

The CTR marine cyanide acute and chronic criteria are both 1.0 ug/l. These were derived in 1985 using the *minimum* data set allowed by the USEPA Guidelines (acute toxicity data for eight genera, chronic data for 5 freshwater and two saltwater species). The species used in this analysis include 3 fish families in the phylum Chordata, 4 families in the phylum Arthropoda (one mysid shrimp, one crab, one amphipod and one copepod) and one family in the phylum Mollusca (a gastropod).

The 1985 cyanide saltwater criteria values are significantly affected by the acute toxicity value (LC50) for one species (*Cancer irroratus*, the Eastern rock crab). This acute value has been scrutinized by several researchers and has been found to be of questionable validity.

The SSO would use U.S. EPA's cyanide criteria as a starting point, then incorporating new toxicity data for four crab species (Brix et al., 2000). The updated criteria have already been adopted by the State of Washington for Puget Sound and we are proposing to adopt the same number, 2.9 ug/l, for San Francisco Bay.

*Reference:*

Brix, Kevin V., Rick D. Cardwell, Douglas G. Henderson, and Arnold R. Marsden. 2000. Site-specific marine water-quality criterion for cyanide. *Environmental Toxicology and Chemistry*. Vol. 19, No. 9, pp. 2323 – 2327.

### **Cyanide Effluent Limitations Policy for Shallow Water Dischargers**

If the Water Board adopts a marine chronic SSO of 2.9 ug/l for cyanide as discussed above, available effluent data indicate that deep water dischargers, which receive dilution of at least 10:1 in the receiving waters, will be able to comply with effluent limitations derived from the SSO. However, there are dischargers to shallow water to whom the Board has not granted dilution credits (zero dilution). Available effluent data from shallow water dischargers indicate that these dischargers may not be assured of achieving the SSO-based effluent limitation through reasonable treatment, source control and pollution prevention measures.

Unlike metals and selenium, cyanide is not a conservative pollutant and data from the Regional Monitoring Program (RMP) indicate it does not threaten to accumulate in the waters and sediment of the Bay. Cyanide attenuates in the receiving waters due to photodegradation as well as dilution, but detailed information on fate and transport of cyanide in the bay is lacking. Point source dischargers are the only significant source of cyanide to the bay; urban runoff is not known to contain detectable levels of cyanide. Information is now being collected by shallow water dischargers to better define attenuation of cyanide in areas of the region near their discharges. This information will be used to develop an effluent limitations policy for shallow water dischargers that accounts for attenuation in receiving waters.

## **2. Stream Protection and Management**

The physical characteristics of water bodies, including hydrology, sediment erosion and deposition, available floodplain, and vegetation, play an important regional role in assimilating and/or removing pollutants. These physical characteristics support stream and wetland functions, such as filtration, flocculation, biological treatment and sedimentation, which improve ambient water quality. They also provide key wildlife and aquatic habitat, flood water retention, and recreational opportunities. As land development progresses, the retention of these critical elements of the landscape that protect and improve water quality has taken on greater importance.

The water quality standards of the Basin Plan need to be updated to recognize that the physical characteristics of streams and wetlands have a strong influence on water quality and protection of beneficial uses, and the regulatory programs of the Water Board need to recognize these elements in the Bay Area landscape in order to meet the goals of the Clean Water Act both in streams and downstream in enclosed bays and estuaries.

### **Incorporate explicit policy on stream protection into 401 water quality certification and stormwater NPDES regulatory programs**

The Water Board has two regulatory programs where it must consider the effects of programs or projects on the physical characteristics of streams in determining whether water quality standards are achieved. For projects that require a U.S. Army Corps of Engineers (USACE) Clean Water Act Section 404 permit for fill or excavation, the Water Board is responsible for issuing the State's Clean Water Act Section 401 water quality certification. The certification is that the project as designed and conditioned will meet State water quality standards. Most such projects involve proposed changes to a water body's physical characteristics through channel modification. They range from localized streambank stabilization or culvert projects to watershed-scale flood management projects. In some instances, the influence of channel modifications on a local scale may be difficult to measure using water quality indicators before-and-after a project, but the cumulative effect of many modifications has a pronounced measurable impact. For instance, many such modifications may result in increased sediment deposition downstream that compromises both flood protection and habitat, or greater instability in the diurnal pattern of ambient dissolved oxygen. Ensuring the protection of physical characteristics that improve water quality on a project-by-project basis will better ensure that cumulative degradation of water quality is avoided.

Decisions made by local jurisdictions (e.g., cities, counties, and special districts) regarding streams have had a cumulative effect on water quality in urban areas of the Region. The surface water ambient monitoring program (SWAMP), begun in 2001, has shown us early indications that some urban streams have better water quality than others, and in many areas better water quality appears to correlate with preservation of physical characteristics such as riparian vegetation and natural channels, including in the headwater portions of watershed channel networks. Local jurisdictions can improve water quality by preserving and improving physical characteristics of water bodies that support stream functions. Recognizing the positive cumulative effect that decisions at local jurisdictions can have, the Water Board's regulatory program should be modified to encourage cities, counties and special districts to maintain stream functions as part of their planning processes for land use and water use.

The Water Board regulates local jurisdictions through its NPDES permits for discharges of urban runoff. Stream protection and management policies adopted in a Basin Plan Amendment would be implemented in existing elements of this program, encouraging local jurisdictions to not only continue urban runoff pollution prevention, but also to protect and enhance the abilities of the water bodies in their jurisdiction to assimilate and/or remove pollutants through their natural stream and wetland functions.

### **Designation of Beneficial Uses related to physical stream and wetland functions that improve water quality**

The proposed stream protection amendment would designate two beneficial uses of streams and wetlands, water quality enhancement (WQE) and flood peak attenuation/flood water storage (FLD). These beneficial uses explicitly recognize that

physical characteristics of water bodies contribute to better water quality, and that these physical characteristics need to be protected in the Board's permitting programs in order to achieve the Board's mission of protecting all beneficial uses of the Region's water bodies. The Lahontan Regional Water Quality Control Board adopted these two beneficial uses in its Basin Plan in the early 1990's, and they allow a linkage between the physical functions of water bodies and water quality. These uses would be protected by narrative water quality objectives related to stream functions. The narrative sediment objective could be modified to include:

*Controllable water quality factors shall not cause a detrimental increase in erosion or deposition of sediment in stream channels such that the natural functions of streams to uptake nutrients, maintain dissolved oxygen concentrations in the water column and in spawning gravels, and moderate temperatures and turbidity levels are altered in such a manner as to cause nuisance or that adversely affects beneficial uses.*

Implementation of this new water quality standard would be through existing regulatory programs, described above.

The new beneficial uses would be designated to existing streams and other water bodies of the Region whose water quality is enhanced by functions of vegetation and channel morphology. A preliminary approach to this designation of the new beneficial uses is as follows:

Water Quality Enhancement (WQE): This use will be designated to any water body that has riparian or floodplain vegetation, or adjacent marsh vegetation. This includes streams, lakes, coastal lagoons, tidal sloughs and wetlands, and estuaries.

Flood Peak Attenuation/Flood Water Storage (FLD): Streams, lakes, reservoirs, coastal lagoons, and tidal sloughs and wetlands all attenuate flood peaks and provide storage for floodwaters during the wet season. Streams may not contain floodplains along their entire length, especially in channelized portions. Except for steep gradient, upper watershed streams, this beneficial use exists along the cross section of most named streams in at least some locations, but some streams are channelized without floodplains along their entire length in some urban areas.

### **Associated update of significant Water Bodies and associated Beneficial Uses (the list has not been updated since 1975) with readily available documentation**

The designation of new uses to better protect stream and wetland functions provides an opportunity to review the Basin Plan water body and beneficial use list (Chapter 2) for completeness. Many streams with substantial public interest are not in the water body list and need to be added and appropriate beneficial uses designated. There are also some errors in the designated uses that can be updated. For instance the sport fishing beneficial use is not designated for some of the Region's water bodies where California Dept. of

Fish and Game issues fishing licenses. U.S. EPA Region IX has identified some water bodies for which municipal water supply (drinking water) may need to be designated in order to be consistent with the State's Sources of Drinking Water Policy 88-63. Where there exists readily available documentation, the Water Board would include these updates as part of the Basin Plan Amendment for Stream Protection and Management.

### **3. Updates of Regulatory Programs**

#### **Establishing Fecal Coliform or Other Bacterial Effluent Limitations in lieu of Total Coliform**

Technology-based effluent limits for bacteria in the NPDES permits for municipal wastewater dischargers were originally based on total coliform. Fecal coliform, and in some cases enterococci and E.coli, are generally more accurate indicators of disinfection efficiency and public health risk than total coliform. Meeting public health risk-based limits for fecal coliform or another bacterial indicator requires less disinfection and dechlorination chemical use than meeting the total coliform limits. Changing limits from total to fecal or another indicator therefore has the benefits of cost savings and increased safety associated with use of less chemicals like sodium hypochlorite and sodium bisulfite. At the same time, the risk to public health is not increased, because the other more specific coliform indicators are simply more accurate indicator of potentially harmful bacteria. Nevertheless, a review of receiving water bacteria levels associated with changes in disinfection are part of the justification process for changing from total coliform-based compliance to fecal or another coliform-based compliance.

The NPDES division has instituted procedures to allow a discharger to receive a fecal coliform-based or enterococci-based limit in lieu of a total coliform limit. It includes an experimental period where chemical uses are changed to meet a fecal coliform-based or enterococci-based limit and receiving waters are surveyed to ensure compliance with bacteria water quality objectives where the beneficial use of water contact recreation occurs. An alternate procedure has been to establish fecal coliform or enterococci limits in the discharge that are equivalent to the objectives. A Basin Plan Amendment would fine tune these procedures based on experience with dischargers such as San Francisco Southeast Water Pollution Control Plant, and formalize them for use by other municipal dischargers in the region.

#### **Acute Toxicity methods**

U.S. EPA has identified the acute toxicity objectives in the Basin Plan as inconsistent with federal regulations. This update would respond to U.S. EPA's requested action.

Currently, NPDES permit limits are based on evaluation of the 11-sample median and 90th percentile values. Federal regulations specify acute toxicity limits to be expressed as:

Maximum Daily Limitation = minimum of 70% survival



Monthly Median Limitation<sup>1</sup> = minimum of 90% survival and a statistically significant difference between the effluent and control samples.

Additionally, U.S. EPA has requested that acute toxicity testing protocols follow EPA's most recent guidance, which is currently the 4th edition of *Methods for Measuring the Acute Toxicity and Effluents and Receiving Waters to Freshwater and Marine Organisms*. Larval fish replace juvenile/adult fish in 96-hour flow-through toxicity tests. In our region, the dischargers have successfully used flow-through systems to capture episodic effects of discharges. Flow-through systems are more difficult to operate with larval fish because the flow can be too strong for them to maintain their position in the water column. Compliance with the acute toxicity objective would be evaluated using flow-through exposure of larval fish to undiluted effluent.

The proposed limitations would apply to all dischargers, regardless of type (continuous vs. intermittent), except that intermittent dischargers could use static renewal, rather than flow-through testing of larval fish.

Limitations expressed as maximum daily and monthly median values could affect attainability for some dischargers. The proposed daily maximum acute toxicity limitation (70% minimum survival) is based on a single sample (results of one toxicity test), rather than a 90th percentile value, so that a single sample could result in a violation. Two consecutive samples with less than 90% survival are also a violation. The current limitation, which allows two consecutive samples with less than 70% survival, and 90% survival as an 11-sample median, is less stringent.

This amendment would not address the frequency of acute toxicity testing. NPDES division staff would establish this on a case-by-case basis.

### **Chronic Toxicity methods**

The Effluent Toxicity Characterization Program was initiated in 1986, and the program description needs to be updated. Table 4-5 (Critical Life Stage Toxicity Test Species and Protocols) should be updated to be consistent with the State Board's California Ocean Plan (1997). The Ocean Plan established preferential test species for fish and invertebrates that are not consistent with the current Table 4-5. Specifically, for the fish method the Ocean Plan specifies the first choice as the topsmelt *Atherinops affinis*, while the Basin Plan specifies the silverside *Menidia beryllina*, which is the Ocean Plan's second choice for the fish method. Similarly, for the mysid shrimp method, the Ocean Plan's first choice is *Holmesimysis costata*, while the Basin Plan specifies the Ocean Plan's second choice, *Mysidopsis bahia*.

### **Add technology based limit for Total Petroleum Hydrocarbons (TPH)**

The two general NPDES permits for the discharge of treated groundwater from fuel leak and solvent cleanup sites contain a technology-based limit of 50 ug/l total petroleum

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<sup>1</sup> Compliance with the monthly median may be demonstrated with a single sample. A sample is defined as a 96-hour continuous exposure of larval fish to undiluted effluent.

hydrocarbons (TPH). It was included in the initial permits based on the analytical level of detection, defining the best available technology as that which treats the TPH levels to “non-detect.”

Exceedances of the technology-based limit have triggered non-discretionary Water Board enforcement action under SB 709. In a comment letter to the Water Board in January 2000, the Western States Petroleum Association (WSPA) indicated that exceedances of the limit could be attributable to non-petroleum hydrocarbons, and they have recently raised the issue of whether commercial laboratories can generate reproducible results at or near 50 ug/l TPH.

### **Mixing zone policy for riverine and estuarine discharges, consistent with State Implementation Policy for Toxic Pollutants (SIP)**

In 1986, the Water Board established effluent limits for toxic pollutants that capped allowable dilution in the San Francisco Bay Estuary at 10:1, and did not allow dilution credit for dischargers that receive less than 10:1 dilution at their outfalls. This policy led to grouping of NPDES permittees into deep water dischargers (greater than 10:1 dilution) and shallow water dischargers (less than 10:1 dilution).

In 2000, the SIP superseded dilution policy provisions of the Basin Plan, and recent January 2004 amendments removed superseded language. Dilution for the purposes of calculating effluent limitations is being implemented on a permit-by-permit basis, consistent with past Water Board actions. The regulated community has requested that the Water Board consider the more sophisticated hydrodynamic modeling tools that have been developed in the last few years to develop a revised dilution policy for riverine and estuarine discharges in the region. These modeling tools can address the implications of multiple discharges in an estuarine system, including urban runoff, that could not be ascertained back in 1986 when the policy was established. This project is expected to take substantial staff resources, due to the controversial history on the topic and the need to effectively communicate technical results and assumptions to the interested public.

### **Compliance Determination with Continuously Monitored Parameters (e.g., chlorine residual and pH)**

Federal regulations require grab samples for compliance monitoring. But based on experience, the Water Board believes that continuous pH monitoring means better surveillance and more rapid response, consistent with its flow-through bioassay requirements. Compliance determination for continuous monitoring should be statistically appropriate. In this proposed amendment, the Water Board would revise pH limitations to provide an excursion allowance that ensures compliance 99% of time (7 hrs., 26 minutes per month; 60 minute/single event). Excursion allowance is regulation for industrial dischargers at 40 CFR 401.17. A similar approach could be employed for other continuously monitored parameters, such as total chlorine residual.

## **Policy on use of Hardness data to Calculate Freshwater Metals Objectives**

Most metals water quality objectives for freshwaters of the region are based on hardness as calcium carbonate. The numeric water quality objectives for these metals in freshwater are calculated based on an equation that includes the receiving water hardness value. The SIP does not specify a preferred method of selecting the appropriate hardness value. For calculating the appropriate water quality objective and any derived effluent limitations, selection of the appropriate hardness value is the subject of this proposed Basin Plan Amendment. This would affect dischargers in this region that discharge to freshwater receiving waters (<1 part per thousand [ppt] 95% of the time), including many that are covered by general NPDES permits for fuel and solvent cleanup sites.

The policy would affect many dischargers that discharge to estuarine waters. Estuarine receiving waters of the region are defined as >1 part per thousand (ppt) salinity 95 % of the time, but less than 10 ppt 95% of the time. Effluent limitations for metals in discharges to estuarine receiving waters are based on the lower of the freshwater and marine objectives. For three metals, cadmium, chromium and lead, the freshwater objective is lower (more protective). The chromium objective is not hardness-based. Therefore the hardness policy would clarify effluent limitations calculations for cadmium and lead for estuarine dischargers throughout the region. Dischargers to marine receiving waters would not be affected by this Amendment.

## **Update pollution prevention language to include reference to SB 709**

Since the Basin Plan language was drafted on pollution prevention in 1995, the program has evolved. Also, the SIP has provisions for pollution prevention, and there is language in SB 709, which established mandatory minimum penalties for effluent limit violations. There is a need to review and update the program description, and evaluate consistency between the Basin Plan, the SIP, and SB709, especially for any regulatory requirements.

## **If U.S. EPA removes “footnote b” of the California Toxics Rule (CTR), amend Tables 3-3 and 3-4 to recognize the CTR as the basis of water quality objectives so that future CTR updates do not require a subsequent Basin planning process**

In January 2004, the Water Board adopted a Basin Plan Amendment that made CTR water quality objectives for metals and salinity definitions of freshwater, estuarine, and marine consistent throughout the region, except for site-specific objectives (SSOs). The amendment will result in a markedly simplified set of water quality objectives, definitions, and application provisions. It will also go a long way towards improving regional and statewide consistency in NPDES permitting. But specific language in footnote “b” of the CTR excludes portions of the San Francisco Bay region from its legal applicability, and this perpetuates a disconnection between areas of the region covered and not covered by the federal rule. This becomes an issue for the Regional Board whenever the U.S. EPA updates federal criteria; for new federal criteria to be applicable throughout the San Francisco Bay region, a separate Basin Planning process has to be conducted to re-establish regionwide consistency. Anticipating this ongoing problem,

Regional Board staff requested that U.S. EPA remove footnote “b” from the CTR as soon as feasible. By letter dated September 10, 2003, Alexis Strauss, Director of the Water Division stated that USEPA was agreeable to removing the footnote and hoped to do so when USEPA amends the CTR to incorporate new human health mercury criteria and aquatic life cadmium criteria, expected later in 2004.

When U.S. EPA’s promulgation of the CTR eliminating footnote “b” becomes final, in any given area of the region the lower of state and federal criteria will apply as water quality objectives. When state and federal numeric standards are identical, the state’s applies. This recent amendment made the standards identical, so the basis of the numbers updated in January 2004 (seven metals for marine waters, eight metals for freshwaters) will remain the Basin Plan. This could be a problem if U.S. EPA updates criteria based on scientific information that makes the numbers less stringent (i.e., higher). In that event, the Basin Plan-based number would still apply and not reflect the latest science and require a separate, lengthy Basin Planning process to re-establish consistency in the region.

Water Board staff propose that, upon final promulgation of an update to the CTR that removes footnote “b,” the Water Board remove (vacate) the CTR-based numbers in the Basin Plan tables 3-3 and 3-4, thereby recognizing that the federal CTR is the basis of the water quality objectives and not the Basin Plan. This will create seamless consistency in water quality objectives for toxic pollutants in this region, promote statewide consistency and reduce confusion and inefficiency in later years if and when the CTR is modified.

### **Editorial revisions and minor clarifications or corrections to text and reference to new laws, plans and regulations**

On an as-needed basis, the Water Board can make editorial changes that clarify or update regulatory program descriptions to be consistent with new laws, plans and regulations. These changes are sometimes needed for clarity and to ensure that the public is informed about the latest requirements to protect water quality. Such proposed elements of Basin Plan Amendments would be non-regulatory, i.e., they would not impose new requirements on permittees, but rather clarify existing regulatory requirements or program descriptions not addressed in the current version of the Basin Plan.

Chapter 5 of the Basin Plan describes plans and policies that direct Water Board actions or clarify the Water Board’s intent, including those adopted by either the Regional Water Board or the State Water Board. This chapter will be reviewed and updated as appropriate, based on consultation with the State Board.

Chapter 6 of the Basin Plan describes the surveillance and monitoring programs of the Water Board. Since the chapter was written in 1995, major changes have occurred, including the initiation of the statewide Surface Water Ambient Monitoring Program (SWAMP), the 5-year review and re-design of the San Francisco Bay Regional Monitoring Program for Trace Substances (RMP), the dissolution of State Mussel Watch and Toxic Substances Monitoring Programs during the state budget crisis, the development of a statewide 303(d) impaired water body listing policy, monitoring by

local jurisdictions, and the statewide citizen monitoring program (Clean Water Team). As such, this chapter will be revisited during this triennial review.

The Regional Water Quality Control Board now uses the convention of “Water Board” as an abbreviated term, in place of “Regional Board,” for the purpose of clarity. Staff will perform a global “search and replace” on the Basin Plan, replacing “Regional Board” with “Water Board,” and “State Board” with “State Water Board.”